IN THE

Supreme Court of the United States

OCTOBER TERM, 1959

No. ~~689~~ 34

TIMES FILM CORPORATION,

Petitioner,

v.

CITY OF CHICAGO, RICHARD J. DALEY and TIMOTHY J. O'CONNOR,

Respondents.

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SEVENTH CIRCUIT

REPLY BRIEF FOR PETITIONER

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REPLY BRIEF FOR PETITIONER

Respondents have stumbled onto the *real* issue in this case in alleging that we seek "carte blanche vesting in petitioner the unparalleled right to exhibit a motion picture depicting something unknown to any of us" (Brief for Respondents in Opposition, p. 7). To exhibit the "unknown", is far from being an "unparalleled right": it is precisely what the First Amendment guarantees us by its negative command. We respectfully submit that this right to show the "unknown" applies to *all* media of communication, that this right extends to petitioner's motion picture—and to all motion pictures—and that the censorship provisions of the Chicago ordinance must fall, as standing in the way of this constitutional right.

Nothing in this Court's holding in *Alberts* v. *California*, 354 U. S. 476 (1957) would give comfort to respondents' new legal theory that that decision is an open sesame for city hall censorship. *This Court has been consistent in striking down such censorship, both before and after the Alberts decision.*

Respondents' allegation that there is no justiciable controversy on the ground that petitioner has failed to make the "required application for a license" (Brief for Respondents in Opposition, p. 7) is sham, since petitioner has in fact complied *with every single requirement* of the ordinance—*but for the censorship provision.*

In alleging that petitioner is "anticipating improper action without any foundation in fact" (Brief for Respondents in Opposition, p. 7), respondents seem to be playing ostrich to a decade of protracted litigation in this field, some of it between them and the petitioner (See Petition, Appendix C, p. 13a). Respondents know—and have so stipulated—that non-compliance by petitioner with the censorship provision of the ordinance would expose it to penalties, fines and arrest. Petitioner has sufficiently demonstrated that no more immediate and irreparable harm could befall it by being precluded from showing its motion picture by virtue of respondents' unconstitutional actions. *Equity will assume jurisdiction under such circumstances to prevent the damage. Terrace* v. *Thompson*, 263 U. S. 197 (1923) and line of cases following (ignored by respondents).

We can attribute respondents' stand only to their fervent desire to continue permanently its unconstitutional practice of pre-censoring the entire motion

picture medium in the city of Chicago. *We respectfully pray that this Court stop that practice by striking down the censorship provisions of the ordinance in issue.*

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